



The State of New Hampshire
Department of Environmental Services



Clark B. Freise, Assistant Commissioner

February 22, 2017

The Honorable Chris Christensen, Chair
House Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, NH 03301

RE: HB485 (amendment 2017-0322h), *An Act relative to standards for emerging contaminants in drinking water*

Dear Chair Christensen and Members of the Committee:

The purpose of this letter is to express three concerns related to the current proposed amendment to HB485. While, in general, the NH Department of Environmental Services (NHDES) supports the new language and believes it greatly clarifies the bill, we do have three remaining issues that we want to make you aware of:

1. The definition of contaminants of emerging concern (page 1, lines 11-15) is “any synthetic or naturally occurring chemical or any microorganism that is not commonly monitored in the environment but has the potential to enter the environment and cause known or suspected adverse ecological or human health effects”. We believe that drinking water standards should be set only for substances which are known to cause harm to human health. Substances in water that cause ecological impacts are regulated under the Clean Water Act and are not the focus of this legislation. Accordingly we would suggest striking the underlined words. We also suggest that changing the term “the environment” to “drinking water and groundwater” adds clarity.
2. The second section of the amendment (page 1, lines 16-21) instructs NHDES to adopt a drinking water standard and ambient groundwater quality standard for PFOS, PFOA and 1,4-dioxane. The department has just undergone a lengthy process of establishing a standard for PFOA and PFOS, which included the evaluation by our risk assessors of all the current alternative standards. We do not believe that another rulemaking is warranted or a good use of scarce resources. The department has already begun the process for changing the ambient groundwater quality standard for 1,4-dioxane and has no issue with being instructed to proceed as planned. All the large municipal water systems have sampled for 1,4-dioxane as well as many of the smaller systems with very few detections above the proposed new standard. Sampling is also occurring at waste sites, permitted groundwater discharge sites and at public water systems where it is likely to exist. Because

The Honorable Chris Christensen, Chair
House Resources, Recreation and Development Committee
February 22, 2017
Page 2

we currently have a rule that requires compliance if found in a public water system, setting a drinking water standard which will require routine monitoring at 1,200 public water systems may not be necessary. Also, adopting standards as rules within 60 days is not possible given the rulemaking process currently overseen by JLCAR, we suggest 180 days as a more appropriate time frame.

3. The bill now dictates assumptions that our health risk assessors would need to use in calculating health advisories for health outcomes other than cancer (page 2, lines 2 -7), specifically it requires the use of a relative source contribution of 20 percent for all health advisories and a consumption rate of 0.175 liters per kilogram body weight per day when the most sensitive receptor is a child under 2 years of age. We strongly object to legislating how these assumptions should be made. In both cases these numbers should be derived by trained professionals on a contaminant specific basis. We also object because changes in scientific understanding have in the past and likely will in the future change what risk assessors use as the default value for these assumptions and this language could force us to set health advisories higher or lower than they should be. Accordingly, we suggest striking the sentences beginning with "Where such standards are based upon non-cancer risk..." and "When the oral reference dose..."

Subject to the concerns outlined above, NHDES generally supports the proposed amendment. However, we note that the bill, as proposed for amendment, does create additional costs for both NHDES and municipalities and may warrant a fiscal note.

Thank you for the opportunity to comment on this amendment. If you have questions or need additional information, please contact Sarah Pillsbury, Drinking Water and Groundwater Bureau Administrator (Sarah.Pillsbury@des.nh.gov or 271-1168).

Sincerely,


Clark B. Freise
Assistant Commissioner

cc: Representatives Messmer, Bean, Malloy, T. Le, Cushing, Berrien, Gordon, Marsh
Senators Bradley, Feltes, Fuller Clark, Innis, Soucy